

108TH CONGRESS  
1ST SESSION

# S. 1703

To amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 2, 2003

Mr. SMITH introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Local Railroad Reha-  
5       bilitation and Investment Act of 2003”.

6       **SEC. 2. CREDIT FOR MAINTENANCE OF RAILROAD TRACK.**

7       (a) IN GENERAL.—Subpart D of part IV of sub-  
8       chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business-related credits) is amended by  
 2 adding at the end the following new section:

3 **“SEC. 45G. RAILROAD TRACK MAINTENANCE CREDIT.**

4       “(a) GENERAL RULE.—For purposes of section 38,  
 5 the railroad track maintenance credit determined under  
 6 this section for the taxable year is the amount of qualified  
 7 railroad track maintenance expenditures paid or incurred  
 8 by the taxpayer during the taxable year.

9       “(b) LIMITATION.—The credit allowed under sub-  
 10 section (a) shall not exceed the product of—

11               “(1) \$10,000, and

12               “(2) the number of miles of railroad track  
 13 owned or leased by the taxpayer as of the close of  
 14 the taxable year.

15       “(c) QUALIFIED RAILROAD TRACK MAINTENANCE  
 16 EXPENDITURES.—For purposes of this section, the term  
 17 ‘qualified railroad track maintenance expenditures’ means  
 18 expenditures (whether or not otherwise chargeable to cap-  
 19 ital account) for maintaining railroad track (including  
 20 roadbed, bridges, and related track structures) owned or  
 21 leased by the taxpayer of Class II or Class III railroads  
 22 (as determined by the Surface Transportation Board).

23       “(d) CONTROLLED GROUPS.—For purposes of sub-  
 24 section (b), rules similar to the rules of paragraph (1) of  
 25 section 41(f) shall apply for purposes of this subsection.

1       “(e) BASIS ADJUSTMENT.—For purposes of this sub-  
 2 title, if a credit is allowed under this section with respect  
 3 to any railroad track, the basis of such track shall be re-  
 4 duced by the amount of the credit so allowed.

5       “(f) APPLICATION OF SECTION.—This section shall  
 6 apply to qualified railroad track maintenance expenditures  
 7 paid or incurred during taxable years beginning after De-  
 8 cember 31, 2003, and before January 1, 2009.

9       “(g) CREDIT TRANSFERABILITY.—

10           “(1) IN GENERAL.—Any credit allowable under  
 11 this section may be transferred as provided in this  
 12 subsection, and the determination as to whether the  
 13 credit is allowable shall be made without regard to  
 14 the tax-exempt status of the transferor.

15           “(2) TRANSFER TO ELIGIBLE TAXPAYER.—Any  
 16 credit transferred under paragraph (1) shall be  
 17 transferred to an eligible taxpayer. Any credit so  
 18 transferred shall be allowed to the transferee, but  
 19 the transferee may not assign such credit to any  
 20 other person.

21           “(3) ELIGIBLE TAXPAYER.—For purposes of  
 22 this subsection, the term ‘eligible taxpayer’ means—

23                   “(A) any person who transports property  
 24                   using the rail facilities of the taxpayer or who

1           furnishes railroad-related property or services  
2           to the taxpayer, and

3           “(B) any Class II or Class III railroad.

4           “(4) MINIMUM PRICE FOR TRANSFER.—No  
5           transfer shall be allowed under this subsection un-  
6           less the transferor receives compensation for the  
7           credit transfer equal to at least 50 percent of the  
8           amount of credit transferred. The excess of the  
9           amount of credit transferred over the compensation  
10          received by the transferor for such transfer shall be  
11          included in the gross income of the transferee.”.

12          (b) LIMITATION ON CARRYBACK.—Section 39(d) of  
13          the Internal Revenue Code of 1986 (relating to transition  
14          rules) is amended by adding at the end the following new  
15          paragraph:

16               “(11) NO CARRYBACK OF RAILROAD TRACK  
17               MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—  
18               No portion of the unused business credit for any  
19               taxable year which is attributable to the railroad  
20               track maintenance credit determined under section  
21               45G may be carried to a taxable year beginning be-  
22               fore January 1, 2004.”.

23          (c) CONFORMING AMENDMENTS.—

24               (1) Section 38(b) of the Internal Revenue Code  
25               of 1986 (relating to general business credit) is

1 amended by striking “plus” at the end of paragraph  
 2 (14), by striking the period at the end of paragraph  
 3 (15) and inserting “, plus”, and by adding at the  
 4 end the following new paragraph:

5 “(16) the railroad track maintenance credit de-  
 6 termined under section 45G(a).”.

7 (2) Subsection (a) of section 1016 of such Code  
 8 is amended by striking “and” at the end of para-  
 9 graph (27), by striking the period at the end of  
 10 paragraph (28) and inserting “, and”, and by add-  
 11 ing at the end the following new paragraph:

12 “(29) in the case of railroad track with respect  
 13 to which a credit was allowed under section 45G, to  
 14 the extent provided in section 45G(e).”.

15 (d) CLERICAL AMENDMENT.—The table of sections  
 16 for subpart D of part IV of subchapter A of chapter 1  
 17 of the Internal Revenue Code of 1986 is amended by in-  
 18 serting after the item relating to section 45F the following  
 19 new item:

“Sec. 45G. Railroad track maintenance credit.”.

20 (e) EFFECTIVE DATE.—The amendments made by  
 21 this section shall apply to taxable years beginning after  
 22 December 31, 2003.

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